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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation and  
12 Petition to Revoke Probation Against,

13 **JAMES R. LA RUE**  
14 **4588 Park Blvd., #4**  
**San Diego, CA 92116**

15 **Registered Nurse License No. 534533**  
16 **Public Health Nurse Certificate No. 57915**

17 Respondent

Case No. 2006-139

**ACCUSATION and**

**PETITION TO REVOKE PROBATION**

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation and Petition to  
22 Revoke Probation solely in her official capacity as the Interim Executive Officer of the Board of  
23 Registered Nursing, Department of Consumer Affairs.

24 2. On or about July 29, 1997, the Board of Registered Nursing issued Registered Nurse  
25 License Number 534533 to James R. La Rue (Respondent). The Registered Nurse license will  
26 expire on November 30, 2010, if not renewed.

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1           3.     On or about August 26, 1997, the Board of Registered Nursing issued Public Health  
2 Nurse Certificate Number 57915 to James R. La Rue (Respondent). The Public Health Nurse  
3 Certificate will expire on November 30, 2010, if not renewed.

4                   **Prior Discipline**

5           4.     In a disciplinary action entitled "In the Matter of the Accusation Against James  
6 Ramos LaRue," Case No. 2006-139, the Board of Registered Nursing, issued a decision, effective  
7 March 16, 2007, in which Respondent's Registered Nurse license and Respondent's Public  
8 Health Nurse Registration were revoked. However, the revocation was stayed and Respondent's  
9 license and registration were placed on probation for a total of forty-five months, beginning with  
10 nine months suspension and then probation for a period of three (3) years with certain terms and  
11 conditions.

12                   **JURISDICTION FOR PETITION TO REVOKE PROBATION**

13           5.     This Petition to Revoke Probation is brought pursuant to Paragraph 13 of the  
14 Disciplinary Order in Case No. 2006-139, referenced in the preceding paragraph, which  
15 states:

16                   **Violation of Probation.** If Respondent violates the conditions of his probation,  
17 the Board, after giving the Respondent notice and an opportunity to be heard, may set  
18 aside the stay order and impose the stayed revocation of the Respondent's registration.

19                   If during the period of probation, an accusation or petition to revoke probation has  
20 been filed against Respondent's registrations or the Attorney General's Office has been  
21 requested to prepare an accusation or petition to revoke probation against the  
22 Respondent's registrations, the probationary period shall automatically be extended and  
23 shall not expire until the accusation or petition has been acted upon by the Board

24           6.     At all times after the effective date of Respondents' probation, Condition 2 stated:

25                   **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full  
26 and detailed account of any and all violations of law shall be reported by Respondent to the  
27 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
28 compliance with this condition, Respondent shall submit completed fingerprint forms and  
fingerprint fees within 45 days of the effective date of this decision, unless previously  
submitted as part of the licensure application process.

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1       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
2       11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
3       Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
4       himself or herself, any other person, or the public or to the extent that such use impairs his or her  
5       ability to conduct with safety to the public the practice authorized by his or her license.

6       ". . . ."

### 7                               UNLAWFUL DRUGS

8       12.   Methamphetamine is a Schedule II controlled substance pursuant to Health and  
9       Safety Code section 11055 (d) (2), and is a dangerous drug pursuant to Business and Professions  
10      Code section 4022.

### 11                              COST RECOVERY

12      13.   Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
13      administrative law judge to direct a licentiate found to have committed a violation or violations of  
14      the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15      enforcement of the case.

### 16                              FACTS

17      14.   On or about November 27, 2008, Respondent stated in an e-mail to the Board that he  
18      had used the illegal controlled substance, methamphetamine, on or before November 21, 2008.  
19      Respondent's e-mail also stated he had promptly enrolled in a drug rehabilitation program to  
20      prevent any future use of methamphetamine.

21      15.   On or about March 18, 2009, the Board served a Notice of Probation Violation on  
22      Respondent which ordered Respondent to provide, by or before April 6, 2009, confirmation to the  
23      Board that he had enrolled in a drug rehabilitation program.

24      16.   On or about May 12, 2009, Respondent tested positive for methamphetamine during a  
25      random drug screening test conducted pursuant to the terms of his probation.

26      17.   On or about June 4, 2009, the Board served Respondent with a Notice of Suspension  
27      of Practice which ordered the immediate suspension of Respondent's Registered Nurse license  
28      and ordered Respondent to immediately cease the practice of registered nursing, pursuant to

1 Condition No. 18 of his probation and as a result of his testing positive for methamphetamine  
2 during a random drug test.

3 18. Compass Vision, Inc. (Compass Vision) is the Board's representative who manages  
4 the Board's random drug testing program for licensees on probation. Respondent was provided  
5 with a unique identification number for his participation in the random drug testing. Compass  
6 Vision, on behalf of the Board, instructed Respondent that he was required to telephone their toll  
7 free number daily, Monday through Friday, and enter his identification number in order to  
8 discover whether Respondent was required to provide a specimen for drug testing on the day of  
9 his call. On fifty-nine (59) separate occasions between November 29, 2008, and June 4, 2009,  
10 Respondent failed to call Compass Visions and enter his identification number. Further,  
11 Respondent did not submit a specimen for drug testing on any of the fifty-nine (59) days that he  
12 failed to call in.

### 13 ACCUSATION

#### 14 FIRST CAUSE FOR DISCIPLINE

##### 15 **(Unlawful Use of Illegal Controlled Substance)**

16 19. Respondent is subject to disciplinary action under Code sections 2761 (a), 2762 (a)  
17 and 2762 (b) in that he used the illegal controlled substance, methamphetamine, an act  
18 constituting unprofessional conduct, on or about November 21, 2008, and May 12, 2009, as  
19 described above in paragraphs 14 through 17, which are incorporated herein by reference.

#### 20 PETITION TO REVOKE PROBATION

##### 21 FIRST CAUSE TO REVOKE PROBATION

##### 22 **(Failure to Abstain From Controlled Substances and Psychotropic Drugs)**

23 20. At all times after the effective date of Respondent's probation, Condition 17 stated:

24 **Abstain from Use of Psychotropic Drugs.** Respondent shall completely  
25 abstain from the possession, injection or consumption by any route of all  
26 controlled substances and all psychotropic drugs, including alcohol, except  
27 when the same are ordered by a health care professional legally authorized to  
28 do so as part of documented medical treatment. . . . "

1        21. Respondent's probation is subject to revocation because he failed to comply with  
2 Probation Condition 17, referenced above, in that he possessed and consumed methamphetamine  
3 on or about November 21, 2008, and May 12, 2009, as described above in paragraphs 14 through  
4 17, which are incorporated herein by reference.

5                                **SECOND CAUSE TO REVOKE PROBATION**

6        **(Failure to Comply with the Random, Biological Fluid Testing or Drug Testing Program)**

7        22. At all times after the effective date of Respondent's probation, Condition 18 stated:

8                                **Submit to Tests and Samples.** Respondent, at his expense, shall  
9 participate in a random, biological fluid Testing or drug screening program  
10 which the Board approves. . . . .

11                                In addition, Respondent, at any time during the period of probation, shall  
12 fully cooperate with the board or any of its representatives, and shall, submit to  
13 such tests and samples as the Board or its representatives may require for the  
14 detection of . . . . or controlled substances.

15                                . . . . .

16        23. Respondent's probation is subject to revocation because he failed to comply with  
17 Probation Condition 18, referenced above, in that he failed to telephone Compass Vision and  
18 enter his identification number as described above in paragraph 18, which is incorporated herein  
19 by reference. Further, Respondent did not submit a specimen for drug testing on any of the 59  
20 dates that he failed to call in.

21                                **PRAYER**

22        WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the Board of Registered Nursing issue a decision:

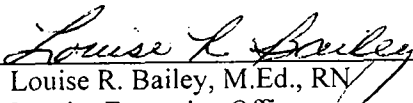
24        1. Revoking the probation that was granted by the Board of Registered Nursing in Case  
25 No. 2006-139 and imposing the disciplinary order that was stayed thereby revoking Registered  
26 Nurse License No. 534533 and revoking Public Health Nurse Certificate No. 57915 issued to  
27 James R. La Rue;

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2. Revoking or suspending Registered Nurse License No. 534533, issued to James R. La Rue;
3. Revoking or suspending Public Health Nurse Certificate No. 57915, issued to James R. La Rue.
4. Taking such other and further action as deemed necessary and proper.

DATED: 8/4/09

  
Louise R. Bailey, M.Ed., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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of the State of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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9 Attorneys for Complainant

10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **JAMES RAMOS VANBUSKIRK**  
15 **LA RUE, R.N.**

16 4534 North Avenue  
San Diego, CA 92116

17 Registered Nurse License No. 534533 and Public  
18 Health Nurse Certificate No. 57915

19 Respondent.

BRN Case No. 2006-139

OAH Case No. L-2006050858

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

20  
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
22 above-entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
25 the Board of Registered Nursing. Complainant brought this action solely in her official capacity  
26 and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by  
27 T. Michelle Laird, Deputy Attorney General.

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2. Respondent James Ramos Vanbuskirk La Rue (Respondent) is represented in this proceeding by attorney David Rosenberg, whose address is Rosenberg, Shpall & Associates, 4901 B St., Suite 2209, San Diego, CA 92101.

3. On or about July 29, 1997, the Board of Registered Nursing issued Registered Nurse License No. 534533 to James Ramos Vanbuskirk La Rue. On or about August 26, 1997, the board of Registered Nursing issued Public Health Nurse Certificate No. 57915 to James Ramos Vanbuskirk La Rue. Respondent's R.N. License and Public Health Nurse Certificate will expire on November 30, 2008, unless renewed.

#### JURISDICTION

4. Accusation No. 2006-139 was filed before the Board of Registered Nursing, Department of Consumer Affairs (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 22, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2006-139 is attached hereto as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2006-139. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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1                   7.       Respondent voluntarily, knowingly, and intelligently waives and gives up  
2 each and every right set forth above.

3   **CULPABILITY**

4                   8.       Respondent admits the truth of each and every charge and allegation in  
5 Accusation No. 2006-139.<sup>1/</sup>

6                   9.       Respondent agrees that his Registered Nurse License and his Public Health  
7 Nurse Certificate are subject to discipline and he agrees to be bound by the Board of Registered  
8 Nursing's imposition of discipline as set forth in the Disciplinary Order below.

9   **CONTINGENCY**

10                  10.       This stipulation shall be subject to approval by the Board of Registered  
11 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the  
12 Board of Registered Nursing may communicate directly with the Board regarding this stipulation  
13 and settlement, without notice to or participation by Respondent or his counsel. By signing the  
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
16 to adopt this stipulation as its Decision, the Stipulated Settlement and Disciplinary Order shall be  
17 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
18 between the parties, and the Board shall not be disqualified from further action by having  
19 considered this matter.

20                  11.       The parties understand and agree that facsimile copies of this Stipulated  
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
22 force and effect as the originals.

23                  12.       In consideration of the foregoing admissions and stipulations, the parties  
24 agree that the Board may, without further notice or formal proceeding, issue and enter the  
25 following Disciplinary Order:

26 \_\_\_\_\_  
27                  1. The following corrections are made to the Accusation: At page 6, line 2, substitute in  
28 "case number M-963857" for "case number WY7124." At page 6, line 25, substitute in "July 16,  
2004" for "July 16, 2005." At page 7, line 2, substitute in "July 16, 2004" for "July 16 2005." At  
page 7, line 9, substitute in "June 14, 2004" for "June 14, 2005."

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1 within no more than 15 days of any address change and shall at all times maintain an active,  
2 current license status with the Board, including during any period of suspension.

3           Upon successful completion of probation, Respondent's license and certificate  
4 shall be fully restored.

5           **4. Report in Person.** Respondent, during the period of probation, shall  
6 appear in person at interviews/meetings as directed by the Board or its designated  
7 representatives.

8           **5. Residency, Practice, or Licensure Outside of State.** Periods of  
9 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
10 of the probation time period. Respondent's probation is tolled, if and when he resides outside of  
11 California. Respondent must provide written notice to the Board within 15 days of any change of  
12 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
13 returning to practice in this state.

14           Respondent shall provide a list of all states and territories where he has ever been  
15 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
16 provide information regarding the status of each license and any changes in such license status  
17 during the term of probation. Respondent shall inform the Board if he applies for or obtains a  
18 new nursing license during the term of probation.

19           **6. Submit Written Reports.** Respondent, during the period of probation,  
20 shall submit or cause to be submitted such written reports/declarations and verification of actions  
21 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
22 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
23 Program. Respondent shall immediately execute all release of information forms as may be  
24 required by the Board or its representatives.

25           Respondent shall provide a copy of this Decision to the nursing regulatory agency  
26 in every state and territory in which he has a registered nurse license.

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1                   7.       **Function as a Registered Nurse.** Respondent, during the period of  
2 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
3 hours per week for 6 consecutive months or as determined by the Board.

4                   For purposes of compliance with the section, "engage in the practice of registered  
5 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
6 work in any non-direct patient care position that requires licensure as a registered nurse.

7                   The Board may require that advanced practice nurses engage in advanced practice  
8 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
9 Board.

10                  If Respondent has not complied with this condition during the probationary term,  
11 and Respondent has presented sufficient documentation of his good faith efforts to comply with  
12 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
13 grant an extension of Respondent's probation period up to one year without further hearing in  
14 order to comply with this condition. During the one year extension, all original conditions of  
15 probation shall apply.

16                  8.       **Employment Approval and Reporting Requirements.** Respondent  
17 shall obtain prior approval from the Board before commencing or continuing any employment,  
18 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
19 performance evaluations and other employment related reports as a registered nurse upon request  
20 of the Board.

21                  Respondent shall provide a copy of this Decision to his employer and immediate  
22 supervisors prior to commencement of any nursing or other health care related employment.

23                  In addition to the above, Respondent shall notify the Board in writing within  
24 seventy-two (72) hours after he obtains any nursing or other health care related employment.  
25 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated  
26 or separated, regardless of cause, from any nursing, or other health care related employment with  
27 a full explanation of the circumstances surrounding the termination or separation.

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1                   9.     **Supervision.** Respondent shall obtain prior approval from the Board  
2 regarding Respondent's level of supervision and/or collaboration before commencing or  
3 continuing any employment as a registered nurse, or education and training that includes patient  
4 care.

5                   Respondent shall practice only under the direct supervision of a registered nurse  
6 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
7 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
8 are approved.

9                   Respondent's level of supervision and/or collaboration may include, but is not  
10 limited to the following:

11                   (a)   Maximum - The individual providing supervision and/or collaboration is  
12 present in the patient care area or in any other work setting at all times.

13                   (b)   Moderate - The individual providing supervision and/or collaboration is in  
14 the patient care unit or in any other work setting at least half the hours Respondent works.

15                   (c)   Minimum - The individual providing supervision and/or collaboration has  
16 person-to-person communication with Respondent at least twice during each shift worked.

17                   (d)   Home Health Care - If Respondent is approved to work in the home health  
18 care setting, the individual providing supervision and/or collaboration shall have person-to-  
19 person communication with Respondent as required by the Board each work day. Respondent  
20 shall maintain telephone or other telecommunication contact with the individual providing  
21 supervision and/or collaboration as required by the Board during each work day. The individual  
22 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
23 site visits to patients' homes visited by Respondent with or without Respondent present.

24                   10.   **Employment Limitations.** Respondent shall not work for a nurse's  
25 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
26 traveling nurse, or for an in-house nursing pool.

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1 Respondent shall not work for a licensed home health agency as a visiting nurse  
2 unless the registered nursing supervision and other protections for home visits have been  
3 approved by the Board. Respondent shall not work in any other registered nursing occupation  
4 where home visits are required.

5 Respondent shall not work in any health care setting as a supervisor of registered  
6 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
7 nurses and/or unlicensed assistive personnel on a case-by-case basis.

8 Respondent shall not work as a faculty member in an approved school of nursing  
9 or as an instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and predetermined  
11 worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week, the  
13 Board may request documentation to determine whether there should be restrictions on the hours  
14 of work.

15 11. **Complete a Nursing Course(s).** Respondent, at his own expense, shall  
16 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
17 than six months prior to the end of his probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the  
19 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
20 completion for the above required course(s). The Board shall return the original documents to  
21 Respondent after photocopying them for its records.

22 12. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
23 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
24 amount of two-thousand, seven-hundred and thirty-three dollars and fifty cents (\$2,733.50).  
25 Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with  
26 payments to be completed no later than three months prior to the end of the probation term.

27 If Respondent has not complied with this condition during the probationary term,  
28 and Respondent has presented sufficient documentation of his good faith efforts to comply with

1 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
2 grant an extension of Respondent's probation period up to one year without further hearing in  
3 order to comply with this condition. During the one year extension, all original conditions of  
4 probation will apply.

5           **13. Violation of Probation.** If Respondent violates the conditions of his  
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
7 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

8           If during the period of probation, an accusation or petition to revoke probation has  
9 been filed against Respondent's license or the Attorney General's Office has been requested to  
10 prepare an accusation or petition to revoke probation against Respondent's license, the  
11 probationary period shall automatically be extended and shall not expire until the accusation or  
12 petition has been acted upon by the Board.

13           **14. License Surrender.** During Respondent's term of probation, if he ceases  
14 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
15 probation, Respondent may surrender his license to the Board. The Board reserves the right to  
16 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
17 take any other action deemed appropriate and reasonable under the circumstances, without  
18 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
19 will no longer be subject to the conditions of probation.

20           Surrender of Respondent's license shall be considered a disciplinary action and  
21 shall become a part of Respondent's license history with the Board. A registered nurse whose  
22 license has been surrendered may petition the Board for reinstatement no sooner than the  
23 following minimum periods from the effective date of the disciplinary decision:

24           (1) Two years for reinstatement of a license that was surrendered for any  
25 reason other than a mental or physical illness; or

26           (2) One year for a license surrendered for a mental or physical illness.

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1                   15.     **Physical Examination.** Within 45 days of the effective date of this  
2 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or  
3 physician assistant, who is approved by the Board before the assessment is performed, submit an  
4 assessment of the Respondent's physical condition and capability to perform the duties of a  
5 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
6 medically determined, a recommended treatment program will be instituted and followed by the  
7 Respondent with the physician, nurse practitioner, or physician assistant providing written  
8 reports to the Board on forms provided by the Board.

9                   If Respondent is determined to be unable to practice safely as a registered nurse,  
10 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
11 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
12 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
13 shall immediately cease practice and shall not resume practice until notified by the Board.  
14 During this period of suspension, Respondent shall not engage in any practice for which a license  
15 issued by the Board is required until the Board has notified Respondent that a medical  
16 determination permits Respondent to resume practice. This period of suspension will not apply  
17 to the reduction of the probationary time period.

18                   If Respondent fails to have the above assessment submitted to the Board within  
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
20 practice until notified by the Board. This period of suspension will not apply to the reduction of  
21 the probationary time period. The Board may waive or postpone this suspension only if  
22 significant, documented evidence of mitigation is provided. Such evidence must establish good  
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
24 provided. Only one such waiver or extension may be permitted.

25                   16.     **Participate in Treatment/Rehabilitation Program for Chemical**  
26 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary  
27 period or shall have successfully completed prior to commencement of probation a Board-  
28 approved treatment/rehabilitation program of at least six months duration. As required, reports

1 shall be submitted by the program on forms provided by the Board. If Respondent has not  
2 completed a Board-approved treatment/rehabilitation program prior to commencement of  
3 probation, Respondent, within 45 days from the effective date of this Decision, shall be enrolled  
4 in a program. If a program is not successfully completed within the first nine months of  
5 probation, the Board shall consider Respondent in violation of probation.

6           Based on Board recommendation, each week Respondent shall be required to  
7 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
8 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
9 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
10 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
11 such attendance to the Board during the entire period of probation. Respondent shall continue  
12 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
13 mental health examiner and/or other ongoing recovery groups.

14           **17. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
15 shall completely abstain from the possession, injection or consumption by any route of all  
16 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
17 the same are ordered by a health care professional legally authorized to do so as part of  
18 documented medical treatment. Respondent shall have sent to the Board, in writing and by the  
19 prescribing health professional, a report identifying the medication, dosage, the date the  
20 medication was prescribed, the Respondent's prognosis, the date the medication will no longer  
21 be required, and the effect on the recovery plan, if appropriate. This report shall be sent to the  
22 Board within fourteen (14) days of the effective date of this Decision.

23           Respondent shall identify for the Board a single physician, nurse practitioner or  
24 physician assistant who shall be aware of Respondent's history of substance abuse and will  
25 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
26 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician

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1 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
2 condition. If any substances considered addictive have been prescribed, the report shall identify a  
3 program for the time limited use of any such substances.

4           The Board may require the single coordinating physician, nurse practitioner, or  
5 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
6 addictive medicine.

7           **18. Submit to Tests and Samples.** Respondent, at his expense, shall  
8 participate in a random, biological fluid testing or a drug screening program which the Board  
9 approves. The length of time and frequency will be subject to approval by the Board.  
10 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
11 number at all times. Respondent shall also ensure that messages may be left at the telephone  
12 number when he is not available and ensure that reports are submitted directly by the testing  
13 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
14 to the Board by the program and Respondent shall be considered in violation of probation.

15           In addition, Respondent, at any time during the period of probation, shall fully  
16 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
17 tests and samples as the Board or its representatives may require for the detection of alcohol,  
18 narcotics, hypnotics, dangerous drugs, or other controlled substances.

19           If Respondent has a positive drug screen for any substance not legally authorized  
20 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
21 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
22 from practice pending the final decision on the petition to revoke probation or the accusation.  
23 This period of suspension will not apply to the reduction of the probationary time period.

24           If Respondent fails to participate in a random, biological fluid testing or drug  
25 screening program within the specified time frame, Respondent shall immediately cease practice  
26 and shall not resume practice until notified by the Board. After taking into account documented  
27 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
28 Board may suspend Respondent from practice pending the final decision on the petition to

1 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
2 the probationary time period.

3           **19. Mental Health Examination.** Respondent shall, within 45 days of the  
4 effective date of this Decision, have a mental health examination including psychological testing  
5 as appropriate to determine his capability to perform the duties of a registered nurse. The  
6 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
7 practitioner approved by the Board. The examining mental health practitioner will submit a  
8 written report of that assessment and recommendations to the Board. All costs are the  
9 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
10 result of the mental health examination will be instituted and followed by Respondent.

11           If Respondent is determined to be unable to practice safely as a registered nurse,  
12 the licensed mental health care practitioner making this determination shall immediately notify  
13 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
14 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
15 practice and may not resume practice until notified by the Board. During this period of  
16 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
17 is required, until the Board has notified Respondent that a mental health determination permits  
18 Respondent to resume practice. This period of suspension will not apply to the reduction of the  
19 probationary time period.

20           If Respondent fails to have the above assessment submitted to the Board within  
21 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
22 practice until notified by the Board. This period of suspension will not apply to the reduction of  
23 the probationary time period. The Board may waive or postpone this suspension only if  
24 significant, documented evidence of mitigation is provided. Such evidence must establish good  
25 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
26 provided. Only one such waiver or extension may be permitted.

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1                   20.   **Therapy or Counseling Program.** Respondent, at his expense, shall  
2 participate in an on-going counseling program until such time as the Board releases him from this  
3 requirement and only upon the recommendation of the counselor. Written progress reports from  
4 the counselor will be required at various intervals.

5   **ACCEPTANCE**

6                   I have carefully read the above Stipulated Settlement and Disciplinary Order and  
7 have fully discussed it with my attorney, David Rosenberg. I understand the stipulation and the  
8 effect it will have on my Registered Nurse License and Public Health Nurse Certificate. I enter  
9 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
10 and agree to be bound by the Decision of the Board of Registered Nursing.

11 DATED: 28 November 2006

12  
13   
14 JAMES RAMOS VANBUSKIRK LA RUE, R.N.  
Respondent

15                   I have read and fully discussed with Respondent James Ramos Vanbuskirk La  
16 Rue, the terms and conditions and other matters contained in the above Stipulated Settlement and  
17 Disciplinary Order. I approve its form and content.

18 DATED: 11/28/06

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21 DAVID ROSENBERG  
Attorney for Respondent

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**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: Nov 28, 06

BILL LOCKYER, Attorney General  
of the State of California

LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
T. MICHELLE LAIRD  
Deputy Attorney General  
  
Attorneys for Complainant

DOJ Matter ID: SD2006800029  
80102095.wpd

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of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
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3 California Department of Justice  
110 West "A" Street, Suite 1100  
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5 P.O. Box 85266  
San Diego, CA 92186-5266

6 Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2006-139*

13 JAMES VAN BUSKIRK LA RUE R.N.

**A C C U S A T I O N**

14 5171 Winthrop Street  
San Diego, CA 92117

15 Registered Nurse License No. 534533 and Public  
16 Health Nurse Certificate No. 57915

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing.

23 2. On or about July 29, 1997, the Board of Registered Nursing (Board) issued  
24 Registered Nurse License Number 534533 to James Ramos La Rue R.N. (Respondent). Said  
25 license expired on November 30, 2000 and has not been renewed. On or about August 26, 1997,  
26 the Board issued Public Health Nurse Certificate Number 57915 to Respondent, which also  
27 expired on November 30, 2000, and has not been renewed.

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3. This Accusation is brought before the Board of Registered Nursing Executive Officer of the Board under the authority of the following laws. All references are to the Business and Professions Code unless otherwise indicated.

4. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

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• • • •

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

“ . . . ”

5. Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself,



1 any other person, or the public or to the extent that such use impairs his or her  
2 ability to conduct with safety to the public the practice authorized by his or her  
3 license.

4 "(c) Be convicted of a criminal offense involving the prescription,  
5 consumption, or self-administration of any of the substances described in  
6 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
7 record pertaining to, the substances described in subdivision (a) of this section, in  
8 which event the record of the conviction is conclusive evidence thereof.

9 "..."

10 6. Section 490 of the Code states:

11 "A board may suspend or revoke a license on the ground that the licensee has  
12 been convicted of a crime, if the crime is substantially related to the qualifications,  
13 functions, or duties of the business or profession for which the license was issued. A  
14 conviction within the meaning of this section means a plea or verdict of guilty or a  
15 conviction following a plea of nolo contendere. Any action which a board is permitted to  
16 take following the establishment of a conviction may be taken when the time for appeal  
17 has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order  
18 granting probation is made suspending the imposition of sentence, irrespective of a  
19 subsequent order under the provisions of Section 1203.4 of the Penal Code."

20 7. Section 2764 of the Code provides, in pertinent part, that the expiration of  
21 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
22 against the licensee or to render a decision imposing discipline on the license.

23 8. Section 125.3 of the Code provides, in pertinent part, that the Board may  
24 request the administrative law judge to direct a licensee found to have committed a violation or  
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
26 and enforcement of the case.

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1 section 11550(a), under the influence of a controlled substance, methamphetamine, and Business  
2 & Professions Code 4140, unlawful possession of a syringe. The court granted formal probation  
3 for 3 years, sentenced Respondent to serve 25 days in custody, and pay fines.

4 15. The facts and circumstances underlying the conviction are that on or about  
5 May 1, 2005, Respondent possessed methamphetamine and a syringe, and was under the  
6 influence of methamphetamine.

7 THIRD CAUSE FOR DISCIPLINE

8 (Criminal Conviction Substantially Related to Nursing - May 19, 2005)

9 16. Respondent has subjected his license to disciplinary action under Code  
10 sections 2761, subdivisions (a) and (f), 2762, subdivision (c), and 490, in that Respondent has  
11 been convicted of a crime involving the possession or use of controlled substances or dangerous  
12 drugs. Respondent's criminal conviction is substantially related to the qualifications, functions,  
13 and duties of a registered nurse. The circumstances are as follows:

14 17. On or about May 19, 2005, in the Superior Court of California, County of  
15 San Diego, in case number CD 189143, entitled *People v. James R. LaRue*, respondent was  
16 convicted on his plea of guilty to one misdemeanor count of violating Health & Safety Code  
17 section 11377(a), possession of a controlled substance, methamphetamine. The court granted  
18 formal probation for 3 years and required to pay fines. The sentencing in this case was ordered to  
19 be concurrent with the sentencing in case numbers CD190688 and CD189746.

20 18. The facts and circumstances underlying the conviction are that on or about  
21 February 16, 2005, Respondent possessed methamphetamine.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Criminal Conviction Substantially Related to Nursing - June 8, 2005)

24 19. Respondent has subjected his license to disciplinary action under Code  
25 sections 2761, subdivisions (a) and (f), and 490, in that Respondent has been convicted of a  
26 crime that is substantially related to the qualifications, functions, and duties of a registered nurse.

27 The circumstances are as follows:

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1                   20.     On or about June 8, 2005, in the Superior Court of California, County of  
2 San Diego, in case number WY7124, entitled *People v. James Ramos LaRue, aka James Ramos*  
3 *La Rue*, respondent was convicted on his plea of no contest to one misdemeanor count of  
4 violating Penal Code section 594(a) - 594(b)(2), vandalism. The court granted summary  
5 probation for 3 years, required Respondent to pay fines, make restitution to the victim, and  
6 complete 12 hours of anger management training.

7                   21.     The facts and circumstances underlying the conviction are that on or about  
8 June 6, 2005, Respondent vandalized real or personal property of another in an amount less than  
9 four hundred dollars (\$400.00).

10                                   FIFTH CAUSE FOR DISCIPLINE

11                   (Criminal Conviction Substantially Related to Nursing - July 5, 2005)

12                   22.     Respondent has subjected his license to disciplinary action under Code  
13 sections 2761, subdivisions (a) and (f), 2762, subdivision (c), and 490, in that Respondent has  
14 been convicted of a crime involving the possession or use of controlled substances or dangerous  
15 drugs. Respondent's criminal conviction is substantially related to the qualifications, functions,  
16 and duties of a registered nurse. The circumstances are as follows:

17                   23.     On or about July 5, 2005, in the Superior Court of California, County of  
18 San Diego, in case number SCD 191682, entitled *People v. James LaRue*, respondent was  
19 convicted on his plea of guilty to one misdemeanor count of violating Health & Safety Code  
20 section 11377(a), possession of a controlled substance, methamphetamine. The court granted  
21 formal probation for 3 years, and required Respondent to pay fines.

22                   24.     The facts and circumstances underlying the conviction are that on or about  
23 June 20, 2005, Respondent possessed methamphetamine.

24                                   SIXTH CAUSE FOR DISCIPLINE

25                   (Criminal Conviction Substantially Related to Nursing - July 16, 2005)

26                   25.     Respondent has subjected his license to disciplinary action under Code  
27 sections 2761, subdivisions (a) and (f), and 490, in that Respondent has been convicted of a  
28 crime that is substantially related to the qualifications, functions, and duties of a registered nurse.

1 The circumstances are as follows:

2 26. On or about July 16 200<sup>5</sup>, in the Superior Court of California, County of  
3 Los Angeles, in case number 4BH00888, entitled *People v. James Ramos La Rue*, respondent  
4 was convicted on his plea of no contest to one misdemeanor count of violating Penal Code  
5 section 242/243(b), battery on a police officer. The court granted summary probation for 3 years,  
6 sentenced Respondent to serve 45 days in custody, enroll and complete a counseling program at  
7 Hollywood Mental Heath, if required by program, and pay fines.

8 27. The facts and circumstances underlying the conviction are that on or about  
9 June 14, 200<sup>5</sup>, Respondent willfully and unlawfully used force and violence upon a peace  
10 officer.

11 PRAYER

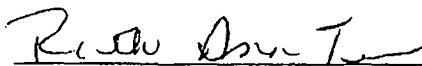
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
13 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License Number 534533, and  
15 Public Health Nurse Certificate No. 57915 issued to James Ramos VanBuskirk La Rue R.N.

16 2. Ordering James Ramos VanBuskirk La Rue R.N. to pay the Board of  
17 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
18 pursuant to Business and Professions Code section 125.3;

19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: 2/9/06

22  
23   
24 RUTH ANN TERRY, M.P.H., R.N.  
25 Executive Officer  
26 Board of Registered Nursing  
State of California  
Complainant

27 SD2006800029

28 Accusation Against James LaRue Revised Feb 8 06.wpd